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APPENDIX

JOHN F. DAVIS, CL

In The
Supreme Court of the United States

OCTOBER TERM, ~~1968~~ ~~1969~~ 1970

No. ~~1079~~ 5315

SARA BAIRD,

Petitioner,

vs.

STATE BAR OF ARIZONA

Respondent.

On Writ of Certiorari to the
Arizona Supreme Court

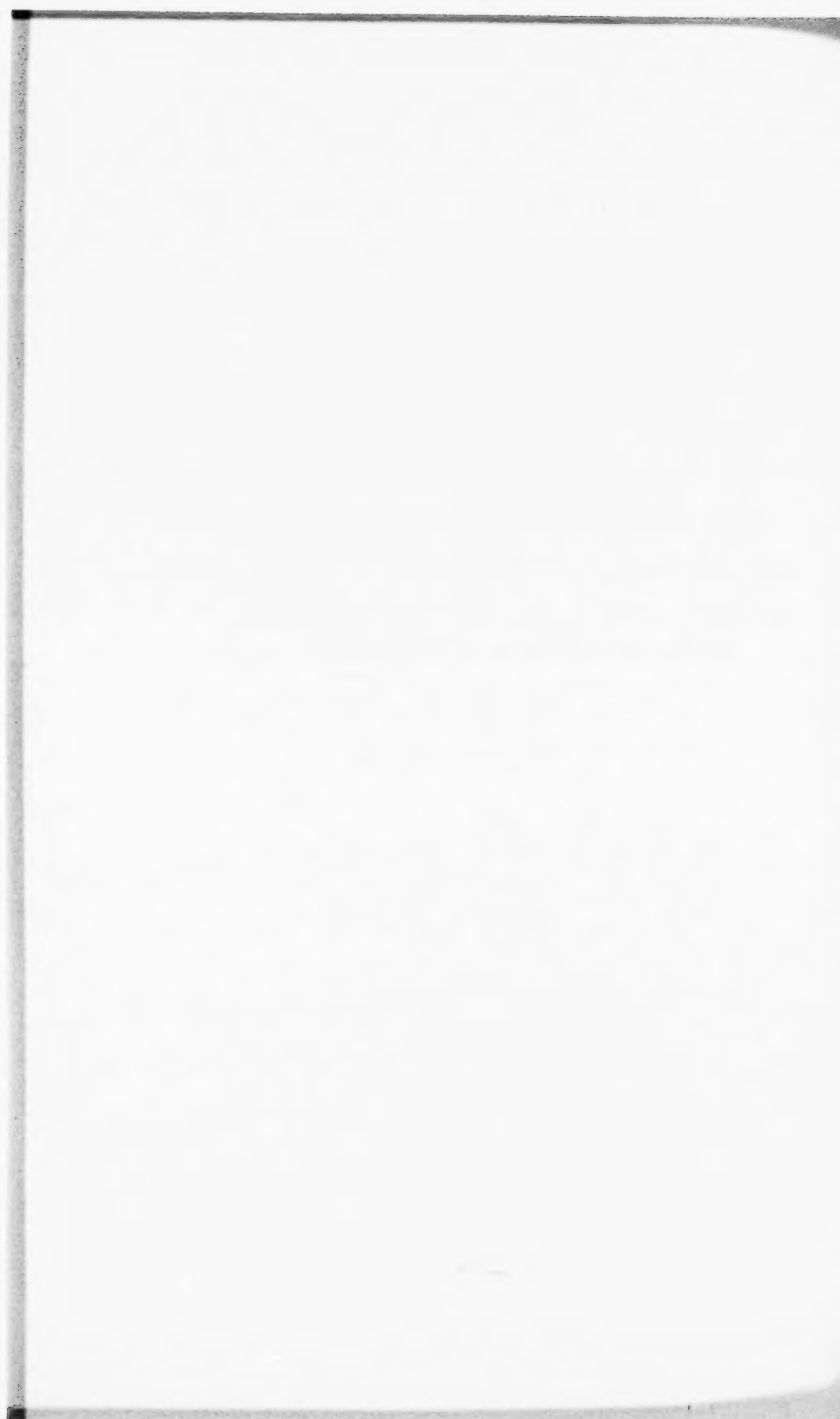
Petition for Certiorari Filed February 21, 1969

Certiorari Granted April 7, 1969



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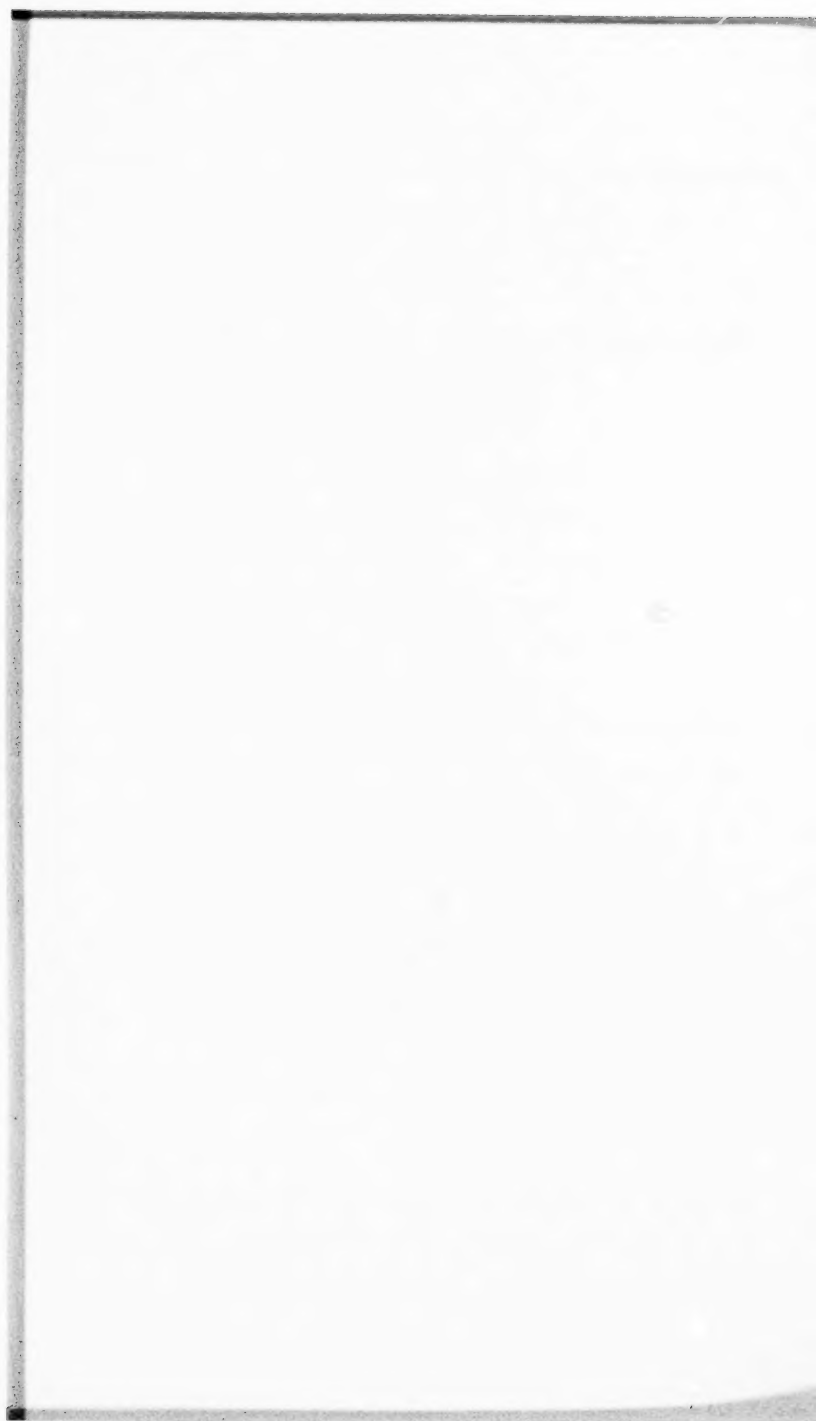
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GENERAL CHRONOLOGY

December 20, 1968: Petition for Order to Show Cause, and supporting Memorandum of Points and Authorities, were filed with the Arizona Supreme Court.

December 23, 1968: Order to Show Cause was issued by the Arizona Supreme Court to the Committee on Examinations and Admissions.

January 3, 1969: Response of Committee on Examinations and Admissions to Order to Show Cause, and supporting memorandum, were filed with the Arizona Supreme Court.

January 14, 1969: Hearing was held by the Arizona Supreme Court on the Order to Show Cause and Petitioner's Reply Memorandum was filed.

January 14, 1969: The Arizona Supreme Court denied the Petition for Order to Show Cause.

PETITION
IN THE SUPREME COURT
OF THE STATE OF ARIZONA

IN THE MATTER OF THE
APPLICATION OF SARA E.
BAIRD FOR ADMISSION TO
THE STATE BAR

PETITION FOR
ORDER TO
SHOW CAUSE

The petition of SARA E. BAIRD respectfully shows as follows:

1. Petitioner is a June, 1967, graduate of the Stanford University Law School and from the time of her graduation to the present has resided continuously in Arizona. In February, 1968, she took the Arizona Bar examination. She is informed and believes, and upon such information and belief alleges, that she passed the examination, but the Committee on Examinations and Admissions of the Supreme Court of the State of Arizona (hereinafter referred to as the "Committee") has refused and still does refuse to recommend petitioner for admission to the State Bar of Arizona.
2. Your petitioner has been informed by the Chairman of the Committee that the reason for the refusal of the Committee to further process her application and to recommend her for admission is that your petitioner answered "Not Applicable" to Question No. 27 of the document known as "Applicant's Questionnaire and Affidavit," the form of which questionnaire and affidavit is set forth in Arizona Supreme Court Rule 28. Question No. 27 reads as follows:
"Are you now or have you ever been a member of the Communist Party or any organization that advocates overthrow of the United States Government by force or violence?"
3. Question No. 27 is in fact "not applicable" to the application of your petitioner because she fully and truthfully answered Ques-

tion No. 25 of the Questionnaire and Affidavit, which question reads as follows:

"List all organizations, associations and club (other than Bar associations) of which you are or have been a member since attaining the age of 16 years."

4. Even if applicable, to require petitioner to answer Question No. 27 as a condition to processing her application for admission to the State Bar of Arizona or as a condition to her admission to the Bar is a violation of petitioner's rights under the Constitution of the State of Arizona and under the Constitution of the United States, particularly the First Amendment, as to freedom of speech and association, the Fifth Amendment, as to self-incrimination, and the Fourteenth Amendment, as to due process of law and equal protection, both separately and as making applicable to state action the First and Fifth Amendments to the United States Constitution.

WHEREFORE, your petitioner prays that this Court make and enter its order requiring the Committee on Examinations and Admissions of the Supreme Court of the State of Arizona to be and appear before this Court at a date and time certain then and there to show cause, if any it may have, why petitioner should not forthwith be recommended for admission to the State Bar or, in the alternative, to show cause why petitioner's application should not be processed by the Committee without requiring of petitioner any further answer to Question No. 27 of Applicant's Questionnaire and Affidavit.

ALLEN & FELS

By /s/ Robert H. Allen

Robert H. Allen

755 First National Bank Building
Phoenix, Arizona 85004

(Verification omitted in printing.)

RESPONSE
IN THE
SUPREME COURT OF THE STATE OF ARIZONA
(Title of case omitted in printing.)
RESPONSE OF COMMITTEE ON EXAMINATIONS AND
ADMISSIONS TO ORDER TO SHOW CAUSE

The Committee on Examinations and Admissions of the Supreme Court of the State of Arizona for its response to the Petition for Order to Show Cause and said Order to Show Cause, respectfully shows the Court:

1. Answering Paragraph 1 of said Petition, upon information and belief the Committee admits the allegations thereof, excepting that with respect to the allegation that said petitioner "passed the examination", the Committee respectfully shows the Court that it has followed the practice uniformly of permitting applicants to sit for an examination even though their file is not fully cleared upon the condition that such permission is conditional and dependent upon the final approval by the Committee of the showing made in the application and by the applicant as to fitness of the applicant for the practice of law.

2. Your Committee admits the allegations of Paragraph 2 of said Petition.

3. Answering Paragraph 3, your Committee denies the conclusion therein stated.

4. Answering Paragraph 4, your Committee denies the conclusions therein set forth.

Further responding to said Petition, your Committee respectfully shows the Court that it is constituted pursuant to the provisions of Rule 28 of the Rules of the Supreme Court of the State of Arizona and as such has only the powers, responsibilities and obligations as therein set forth and as are set forth with particularity in Rule 28(c) of the Rules of the Supreme Court of the State of Arizona as amended. Said Rule 28(c) as a part thereof specifically prescribes the form of the Applicant's Questionnaire

and Affidavit which said affidavit, paragraph 27 thereof, specifically requires an answer to the question as set forth in petitioner's Paragraph 2 of her Petition for Order to Show Cause. Your Committee does not believe it has the authority or jurisdiction to do other than require compliance with the rules of this Court unless and until the same are amended, altered or rescinded by this Court.

This response is supported by the Memorandum hereafter appearing responding to the Memorandum of the applicant as attached to her Petition for Order to Show Cause.

Respectfully submitted,
HENRY R. MERCHANT, JR.
DAVID K. WOLFE
WILLIAM E. KIMBLE
GEORGE READ CARLOCK
MARK WILMER

By /s/ Mark Wilmer

Chairman

COMMITTEE ON EXAMINATIONS AND
ADMISSIONS

858 Security Building
Phoenix, Arizona 85004

MEMORANDUM IN SUPPORT OF RESPONSE TO
PETITION FOR ORDER TO SHOW CAUSE

(Relevant excerpts from the Committee Memorandum are as follows:)

"Unless we are to conclude that one who truly and sincerely believes in the overthrow of the United States Government by force and violence is also qualified to practice law in our Arizona courts, then an answer to this question is indeed appropriate. The Committee again emphasizes that a mere answer of 'yes' would not lead to an automatic rejection of the application. It would lead to an investigation and interrogation as to whether or not the applicant presently entertains the view that a violent overthrow of the United States Government is something to be

sought after. If the answer to this inquiry was 'yes' then indeed we would reject the application and recommend against admission." Committee Memorandum at 3.

"I also believe that Mrs. Baird should realize that even though she answered the question that she had at one time been a Communist or had otherwise been associated with organizations not regarded as friendly to the United States Government, this would not necessarily cause us to reject her application. We would undoubtedly want to ask her some questions as to her present beliefs and as to other matters which would bear upon the effect such membership would have on her qualifications to practice law." Committee Memorandum at 1.

"The Committee would again emphasize to this Court that if the answer to question No. 27 is 'yes' the committee will then endeavor to ascertain if Sara Baird does adhere to the view that the overthrow of the Government of this State and of the United States by force and violence would be a desirable objective and that she would expect to actively support such views. If this is the conclusion reached by the committee, it will undoubtedly refuse to recommend Sara Baird for admission to the Bar of the State of Arizona. Should the conclusion be that her membership is of a nominal character and that she does not participate and adhere to the views that a violent overthrow of our government is desirable, then the committee would have no legal basis for refusing to recommend her for admission" Committee Memorandum at 7-8.

JUDGMENT

SUPREME COURT

State of Arizona

Phoenix

January 20, 1969

In the Matter of the Application of
SARA E. BAIRD, for admission to
the Arizona State Bar.

No. 9498

The following action was taken by the Supreme Court of the State of Arizona on January 14, 1969, in regard to the above-entitled cause:

"ORDERED: Petition for Order to Show Cause = DENIED."

SYLVIA HAWKINSON, Clerk

By /s/ Lucile Brooks
Assistant Clerk

To Allen & Fels

755 First National Bank Building
Phoenix, Arizona 85004

Mark Wilmer

Committee on Examinations and Admission
Arizona State Bar
858 Security Building
Phoenix, Arizona

Arizona Supreme Court Rule 28(a) provides as follows:

The examination and admission of applicants for membership in the State Bar of Arizona shall conform to this Rule. For such purpose, a committee on examinations and admissions consisting of five active members of the state bar shall be appointed by this court upon the recommendation of the board of governors of the state bar which shall recommend at least three members of the state bar for each appointment to be made. The committee shall examine applicants and recommend to this court for admission to practice applicants who are found by the committee to have the necessary qualifications and to fulfill the requirements prescribed by the rules of the board of governors as approved by this court respecting examinations and admissions heretofore adopted and made effective May 25, 1948, and as amended effective February 1, 1954, and such other rules as hereafter may be adopted. The court will then consider the recommendations and either grant or deny admission. As amended effective June 19, 1964.

Arizona Supreme Court Rule 28(c) (II) provides as follows:

Except as hereinafter provided in Rule X any person desiring to be admitted to the practice of law in the State of Arizona must file with the Secretary of the Committee on Examinations and Admissions, hereinafter called "Committee," at the office of the State Bar of Arizona, a written application in substantially the following form:

Application for Examination

To the Committee on Examinations and Admissions of the Supreme Court of Arizona:

I, _____, hereby apply for permission to take the examination to be given in the month of _____ (February or July) of the year 19____.

I am _____ years of age.

I am, or at the time of the examination for which this application is made, I will be an actual and bona fide resident of the State of Arizona, and have been or will have been such

resident since the ____ day of _____, 19____, residing at _____ (alone) (with my family consisting of _____). (In case the application is based upon the residence attendance at the College of Law of the University of Arizona or of the College of Law of Arizona State University for the two semesters provided by subdivision 2 of Rule IV, there should be inserted in lieu of the foregoing statement of bona fide residence the facts showing the residence attendance at the College of Law of the University of Arizona or of the College of Law of Arizona State University required by Rule IV. In such cases the applicant's address at the University of Arizona or Arizona State University and his permanent home address should be given.)

I graduated or will graduate from the _____ Law School, at _____, on the ____ day of _____, 19____.

I am mentally and physically able to engage in active and continuous practice of the law. (If not, state extent of disability.) _____

The following are the names and addresses of persons by whom the foregoing statements may be verified: _____

I have never been charged with or convicted of any felony or of any misdemeanor involving moral turpitude, except the following: _____

My good moral character will be vouched for by _____, whose occupation is _____, and whose address is _____; by _____, whose occupation is _____, and whose address is _____; and by _____, whose occupation is _____, and whose address is _____.

As a part of this application I (file herewith) (have heretofore filed) my Applicant's Questionnaire and Affidavit.

I agree that I will on the day the examination begins file a further statement on the form to be supplied by the Committee at the time of the notification of the time and place of the giving of the examination of any material changes in or additions to the answers to the Applicant's Questionnaire and Affidavit which have occurred between the date of the filing of

said Applicant's Questionnaire and Affidavit and the date of the examination.

Dated this _____ day of _____, 19____.

Rule 28(c) (V) provides as follows:

Before acting upon any application the Committee will require the applicant to file with the Committee applicant's questionnaire and affidavit, which is set forth in Exhibit A hereto attached. This shall be on the printed form which will be furnished by the Committee. The applicant's questionnaire and affidavit must be accompanied by (1) the fingerprints of the applicant taken in an approved manner and certified by a municipal police department, a sheriff's office, or other recognized authority acceptable to the Committee, and (2) a dull finish photograph of the applicant's head, neck and shoulders, not larger than 4 inches by 4 inches nor smaller than 3 inches by 3 inches, taken within six months prior to filing with the Committee.

All of the documents required to be filed by the applicant (except law school diploma in the case of law school graduates who have graduated immediately prior to the examination to be taken) must be filed and any required registration fee paid not later than the first day of October if the application is for the following February examination and not later than the first day of March if the application is for the following July examination; provided, however, that the Committee may, in its discretion and for good cause shown, entertain and act upon an application, accompanied by said documents and registration fee, if filed within a reasonable time subsequent to the applicable filing date and the Committee finds that its investigation of the fitness of the applicant to practice law is not unreasonably impaired by such late filing.

After said applicant's questionnaire and affidavit, fully answered under oath, is filed, the Committee will make such investigation as it deems proper for the purpose of determining whether or not the applicant possesses the qualifications specified in Rule IV.

Such investigation will ordinarily require not less than ninety (90) days. As a part of such investigation, the applicant himself may be required to appear before the Committee for a personal interview.

When an application has been acted upon by the Committee, the Secretary will promptly notify the applicant whether he has or has not been granted permission to take the desired examination. If such permission is granted, the Secretary will also notify the applicant of the time and place of such examination.

Exhibit A to Arizona Supreme Court Rule 28, the Applicant's Questionnaire and Affidavit, is as follows:

Instructions to the Applicant

All Statements are to be based on your own knowledge, unless the statement is expressly qualified to show the source of your information. Answer all questions and make your answers as specific as possible. If the space for any answer is insufficient, you may complete your answer on a separate attached sheet. Please have the answers typewritten if possible.

Applicant's Questionnaire and Affidavit

1. State:

(a) Full name.

Social Security Number:

(b) Have you ever been known by any other name or surname _____; if so state all names

Yes or No

used and the places and times thereof.

If married woman, give maiden name.

2. Date of birth _____

Birthplace _____ Age _____

3. State every residence you have had since you were sixteen years of age:

City and State	Street No.	From (Mo. & Yr.)	To (Mo. & Yr.)
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

4. My education was received as follows:

(a) High School _____
Name, Location

Dates of attendance:

From _____ To _____

(b) College or University other than law study

Name	Location
------	----------

Dates of attendance:

From _____ To _____

(If you did not attend a college, so state)

(c) **Law Study:**

Law Schools _____

Name, Location

Dates of attendance:

From _____ To _____

Name	Location
------	----------

Dates of attendance:

From _____ To _____

Degrees: _____

Yes or No

What Degrees

Law Office Study:

[illegible]

Dates: From _____ To _____

[illegible]

Dates: From _____ To _____

5. Make a complete statement of your practice of the law since first being admitted to practice in any jurisdiction. Include temporary or part-time work. State as to each employment or period of private practice:

(1) The periods during which you were employed as an attorney, or engaged in private practice, with the dates.

(2) The exact addresses of the offices or places at which you were so employed or engaged and the complete names and present addresses of all such former

employers, partners or associates, if any. (If room number of office is known, this should be given. If you shared office space with other lawyers or business firms, please so state and give their full names and present addresses.)

- (3) The nature and extent of your duties or practice.
- (4) The reason for the termination of each employment or period of private practice.

(1) (2) (3) (4)

6. Make a complete statement of all employments you have had, or business or occupations in which you have been engaged on your own account, since you became sixteen years of age, other than as set forth in question 5. Include temporary or part-time work. State as to each employment, business, or other occupation:

- (1) The periods during which you were so employed or engaged with the dates.
- (2) The exact addresses of the offices or places at which you were so employed or engaged and the names and present addresses of all such former employers, partners or associates in business, if any.
- (3) The position held by you.
- (4) The reason for the termination of each employment, business or other occupation.

(1) (2) (3) (4)

Include complete details regarding any service in the armed forces, i.e., dates of service, rank, serial number, locations, last commanding officer, and your last service address complete. If separated from such service, state nature of such separation and, if other than honorable, specify type thereof and circumstances surrounding your release. Give full particulars as to any complaints or disciplinary proceedings against you.

7. Have you ever held any judicial office?

yes or no

If so, state where, when, and offices held, and if terminated the reasons therefor: _____

8. (a) Have you ever held a license, other than as an attorney at law, the procurement of which required proof of good character (i.e., certified public accountant, patent attorney, real estate broker, etc.) _____

Yes or No

As to each license, state the date it was granted, and the name and address of the authority issuing it.

(b) State every application presented and examination taken by you for a license granted by the state or an official position, the procurement of which required proof of good character. (Specify all examinations whether or not you were successful. Specify every application presented including applications for reinstatement and withdrawn applications and whether or not they were granted.) State as to each application the date, the name and address of the authority to whom it was addressed, and the disposition made of it, with the reasons therefor, and as to each examination the result thereof.

9. Name all jurisdictions and courts in which you have been admitted to practice law. Give dates of admission to practice.
(a) Jurisdiction (b) Courts (c) Date of Admission

10. State every application for admission to the bar made by you EXCEPT those covered by your answers to question 9, the disposition made of each such application, and the reasons therefor.

11. Have you registered or taken any other steps looking to taking the examination in any other jurisdiction?

Yes or No

If so, give dates and full circumstances _____

12. Do you intend to take the examination or apply for admission in any other jurisdiction between the date hereof and

your admission to the Bar of Arizona, if you qualify?

Yes or No

If so, gives [sic] dates and full circumstances_____

13. Have you been entitled to practice in each of the locations specified under question 9 and before each court continuously from the date you first became so entitled until the date hereof? _____

Yes or No

If not, state the dates during which you have not been so entitled, the nature of the disqualification, the facts, and the name and address of the person or body in possession of the record thereof.

14. Have you been disbarred, suspended from practice, reprimanded, censured or otherwise disciplined or disqualified as an attorney or member of any profession or organization, or holder of any office, public or private; or have any complaints or charges, formal or informal, ever been made or filed or proceedings instituted against you? _____

Yes or No

If so, state the dates, the facts, the disposition of the matter, and the name and address of the authority in possession of the record thereof.

15. If you have been previously admitted to the bar, state the exact names and addresses of courts before which your former practice of law was chiefly conducted.

Name

Location

16. Have you ever held a bonded position? _____

Yes or No

If so, specify nature of position, dates, amount of bond and whether or not any one ever sought to recover upon your bond or to cancel the same. State facts fully, including the name and address of the bonding company, if any.

17. Were you ever dropped, suspended, or expelled from school or college? _____

Yes or No

If so, state facts fully.

18. Were you at any time in the course of your schooling or elsewhere accused of cheating or plagiarism? _____

Yes or No

Give details. _____

19. (a) Have you ever been a party to or had or claimed any interest in any civil proceeding? _____

Yes or No

- (b) Have you ever been charged with, arrested, or questioned regarding, the violation of any law? _____

Yes or No

- (c) Have you ever been charged with fraud, formally or informally, in any legal proceeding, civil or criminal, or in bankruptcy? _____

Yes or No

- (d) Have you ever been declared a ward of any court? _____

Yes or No

- (e) Have you ever been adjudicated an incompetent person, an insane person or a lunatic by any court? _____

Yes or No

- (f) Have you ever been adjudicated a bankrupt, or has a petition in bankruptcy been filed at any time by you or against you, either alone or in association with others? Have you ever been brought in as a party to any proceedings in a bankruptcy court; or have you ever been sued or threatened with suit by the receiver, trustee, or other authority of any bankrupt estate, for unlawful preference, conspiracy to conceal assets, or any other fraud or offense, whether punishable by criminal law or not? _____

Yes or No

Give full details for (a), (b), (c), (d), (e), and (f), including dates, exact name and address of the court if any, case numbers, references to the court records if any, the facts, the disposition of the matter; if no court records are available, give to the best of

your ability the names and addresses of all persons involved, including counsel. (Include all such incidents no matter how minor the infraction or whether guilty or not.)

20. Are there any unsatisfied judgments against you?
-

Yes or No

If so, list them, giving names and addresses of creditors, amounts, dates and nature of judgment, and reasons for nonpayment.

21. (a) State whether or not you are married _____

Yes or No

If so, give date of each marriage and full name of spouse prior to that marriage.

- (b) State whether or not you have ever been divorced.
-

Yes or No

If so, the name of the spouse from whom divorced, the exact name and address of the court, the case number, the date, the ground of divorce, and by whom suit was brought.

- (c) If a divorce suit is pending or a marriage has been annulled, give particulars similar to those requested under (b).
-

22. State names and addresses of three persons in each locality where you practiced law with whom you are personally acquainted, preferably other than those referred to in your answer to question 5. (If you have not practiced previously, give the same information for each locality in which you have lived.)
-

Name	Address	Occupation	How long has known you
------	---------	------------	------------------------

23. Give the names and addresses of three attorneys and two clients who know you. These should be other than those supporting your application or named in questions 5 and

22. (If you have not practiced previously, give the names of law school professors, etc.)

Name	Address	Occupation
------	---------	------------

24. Give the name and location of each bar association of which you are or have ever been a member.
25. List all organizations, associations and club (other than Bar associations) of which you are or have been a member since attaining the age of 16 years.

26. Is there any other incident in your career, not hereinbefore referred to, having a bearing upon your character or fitness for admission to the Bar? _____

Yes or No

If so, give full details.

27. Are you now or have you ever been a member of the Communist Party or any organization that advocates overthrow of the United States Government by force or violence?

I, _____, hereby apply for a character report in connection with my application for admission to practice law in the State of Arizona. I agree to give any further information which may be required in connection with my past record, and consent to having this investigation made and such information as may be received reported to the admitting authority.

I agree that I will not receive a copy of the report, or any information received in connection with this application, and I expressly waive any and all rights I might have or claim to such report, any copy thereof, or to know the contents thereof.

Signature

STATE OF _____ }
COUNTY OF _____ }

ss.

_____, being duly sworn, says: I have read the foregoing questions and have answered them fully and frankly. The answers are complete and are true of my own knowledge.

Signature of Applicant

19

Subscribed and sworn to before me this _____ day of
_____, A.D. 19_____.

Notary Public

Supreme Court of the United States

No. 1079 -----, October Term, 19 68

Sara Baird,

Petitioner,

v.

State Bar of Arizona

Order allowing certiorari. Filed April 7 -----, 19 69.

The petition herein for a writ of certiorari to the Supreme Court of the State of Arizona is granted, and the case is placed on the summary calendar.

And it is further ordered that the duly certified copy of the transcript of the proceedings below which accompanied the petition shall be treated as though filed in response to such writ.